

HCS HB 194 -- ABORTION (Franklin)

COMMITTEE OF ORIGIN: Standing Committee on Children and Families

This bill changes the laws regarding abortion.

PROHIBITED ACTIVITIES REGARDING FETAL REMAINS

The bill changes the laws regarding fetal remains and requires the women to be informed of the disposal process. The bill prohibits a person from knowingly donating or making an anatomical gift of the fetal organs or tissue resulting from an abortion to any person or entity for medical, scientific, experimental, therapeutic, or any other use. Any person who violates these provisions is guilty of a class C felony and the court may impose a fine in an amount not less than twice the amount of any valuable consideration received. These provisions must not prohibit the utilization of fetal organs or tissue resulting from an abortion for medical or scientific purposes to determine the cause of any anomaly, illness, death, or genetic condition of the fetus, the paternity of the fetus, or for law enforcement purposes (Sections 188.027 and 188.036, RSMo).

NOTIFICATION TO MINOR'S CUSTODIAL PARENT

Currently, a person is not permitted to knowingly perform an abortion on a minor unless the attending physician has secured the informed written consent of the minor and one parent or guardian of the minor. This bill requires, except in the case of an emergency, the consenting parent or guardian of the minor to notify any other custodial parent or guardian in writing prior to the securing of the informed written consent of the minor and consenting parent or guardian (Section 188.028).

REPORTS REQUIRED AFTER AN ABORTION

Currently, only a representative sample of tissue removed at the time of abortion must be sent to a pathologist. The bill requires all tissue removed at the abortion to be sent to a pathologist. The tissue report from the pathologist must include the pathologist's estimation of the gestational age of the fetal remains; whether all tissue and products of conception were received that would be common for a specimen of such estimated gestational age; if the pathologist finds that all tissue and products of conception were not received, what portion of the tissue and products of conception were not received; the name and address of the entity where the evaluation was conducted, and the date the tissue and products of conception were remitted to be disposed and the location of such disposal. The abortion report completed by the attending physician must include the physician's

estimation of the gestational age of the fetal remains; whether all tissue and products of conception were removed that would be common for a specimen of such estimated gestational age; and if the physician finds that all tissue and products of conception were not removed, what portion of the tissue and products of conception were not removed.

Each fetal tissue specimen must be given a unique identification number to allow the specimen to be tracked from the abortion facility or hospital where the abortion was performed to the pathology lab and its final disposition location. This bill allows the fetal remains to be returned to the mother for final disposition. A report must be created and submitted as specified in the bill and must document the date the specimen was collected, transported, received, and disposed, if applicable. The Department of Health and Senior Services must reconcile each notice of abortion with its corresponding pathology report. If the department does not receive both reports, the department must investigate and if the department finds the facility where the abortion was performed is not in compliance with these provisions, the department must consider such noncompliance a deficiency requiring an unscheduled inspection of the facility to ensure remediation and if there is no remediation the department must suspend such facility's or hospital's license for at least a year. All reports and information received by the department under these provisions must be included in an annual report to the General Assembly (Sections 188.047 and 188.052).

EMPLOYEE PROTECTIONS FOR CERTAIN DISCLOSURES

The bill changes the laws regarding disclosures by employees of facilities involved in the handling of fetal remains from an elective abortion. The bill requires each hospital, ambulatory surgical center, pathology lab, medical research entity, and disposal facility involved in such activities to establish and implement a written policy relating to the protections for employees who in good faith disclose facility mismanagement, fraudulent activity, or violations of applicable federal or state laws or administrative rules concerning abortions or the handling of fetal remains. Such policy must include a time frame for completion of investigations related to complaints, not to exceed 30 days, and a method for notifying the complainant of the disposition of the investigation. The policy must be submitted to the department to verify implementation and must, at a minimum, include certain provisions as specified in the bill.

All information disclosed, collected, and maintained under these provisions must be accessible to the department at all times and must be reviewed by the department at least annually. Complainants

must be notified of the department's access to such information and of the complainants right to notify the department of any information concerning alleged violations of applicable federal or state laws or rules. Prior to any disclosure to individuals or agencies other than the department, employees wishing to make a disclosure under these provisions must first report to the individual designated by the facility. If the compliance officer, compliance committee, or management official discovers credible evidence of misconduct from any source and after reasonable inquiry has reason to believe the misconduct may violate certain laws, the facility must report the existence of misconduct to the appropriate governmental authority no more than seven days after determining there is credible evidence of a violation. Each facility must, within 48 hours of receiving a report, notify the employee that his or her report has been received and is being reviewed. The bill requires specified entities to post notice of these provisions in locations conspicuous to employees (Section 188.160).

DISPOSITION OF FETAL REMAINS

The bill changes the definition of "remains of a human fetus" to be the remains of the dead offspring of a human being that has reached a stage of development so that there are cartilaginous structures or fetal or skeletal parts after an abortion or miscarriage, whether the remains have been obtained by induced, spontaneous, or accidental means (Section 194.375).

ABORTION FACILITY INSPECTIONS

The bill requires the Department of Health and Senior Services to make an unannounced on-site inspection and investigation at least once annually of any ambulatory surgical center operated for the purpose of performing or inducing an abortion. Inspection, investigation, and quality assurance reports must be available to the public, provided that information not subject to disclosure under the law be redacted (Section 197.230).

This bill is similar to HB 326 (2017), HB 2069, HBs 2068, 2070, 2071, and 2329 (2016), and SCS SB 644 (2016).